

Review Staff: 76-0056
12 January 1976

MEMORANDUM FOR: SC/DCI

SUBJECT: SSC Oversight Draft

1. Without having a view on tactics in the Senate of establishing a new oversight committee, I have basic reservations about the language of the proposed "bill." The extent and detail of the intended oversight authority seems to me to constitute a significant invasion of the Executive Branch responsibility and authority in the management area. Further, the vagueness of some of the language could create future problems between the DCI and the Senate on the question of the sort of operational detail he would be required to provide upon request.

2. The following comments have to do with requirements for reporting:

a. I have no difficulty with Section 7 in formulating a requirement about "regular and periodic reports...on the nature and extent of the intelligence activities." This strikes me as being more subject to the interpretation of being generalized reporting rather than specific, and more susceptible to the interpretation that it refers to programs rather than specific operations.

b. I still have trouble with Section 13(a) on the requirement that "the Senate (be kept) fully and currently informed." This is susceptible to disagreement as to its meaning although it would present borderline questions for argumentation. Its significance really comes in relation to the next two sub-sections. Deletion of the modifying "all" is a minimum to fix this.

c. Section 13(b) has been fixed, hopefully, by deletion of the word "any" as a modifier to information.

d. Section 13(c) requires prior consultation on "intelligence activities." Depending on what the oversight committee in its wisdom decides it should know in advance, this could create major problems. This is not a request for information in advance on general intelligence programs, but refers to specific activities. This is more subject to the interpretation that we could be required to give detailed information on all manner of "intelligence activities." To CIA this is very different from requirements for information on "covert action activities" on which the Congress may have a more proper legal claim because it is a positive aspect of foreign policy. The phraseology must be modified to make it clear that the Agency can provide information on intelligence programs, subject to the Director's responsibility to protect sources and methods, while a different requirement might properly be formulated for reporting on "covert action activities." The definitional question here is very substantive, and it seems to me that Sections 13(a) and (b) assume a new significance when read in conjunction with unacceptable Section 13(c).

3. The overlap between reporting requirements and fuzzy language appears above in the discussion of what is meant by "intelligence activities." You might wish to raise with the SSC the fact that its definition of "national intelligence" really refers to the way we define "foreign intelligence." If Section 17 is intending to distinguish between "national intelligence" and "domestic intelligence," then it may be that Section 17(1) should substitute the word "foreign" for the word "national." The distinction that is drawn in the intelligence community is between "national intelligence" and "departmental intelligence." The SSC can only add to the confusion by trying to manufacture some new incomprehensible definitions of its own.

4. I have one final problem with Section 14. I would like to have a better understanding of just what its significance is. John Warner has explained to me that the

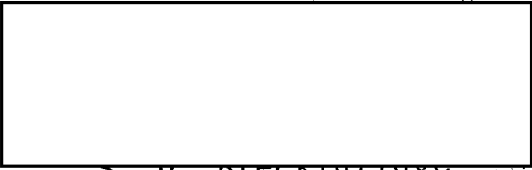
Armed Services Committee has established categories of expenditures for which Congressional authority following appropriations is required. The extent to which they wish to use this to involve themselves in prior approval of "intelligence activities," could prove to be very significant and should be viewed in this light.


5. Section 15, which provides for financial audits, must be associated with our objections to Section 13 when it gets into the sources and methods area. I don't think we are yet prepared to give GAO access to our agent information.

6. The whole "disclosure" section is simply unacceptable.

7. There is merit in not preparing an alternative draft that can be made to look as though we are approving the SSC approach, or that we are giving away things other committees (Rules, Government Operations and Armed Services) won't. I would propose merely casting our comments as to how unacceptable language might become acceptable, with the clear understanding that a variety of provisions--in conjunction--may have a total result that is unacceptable.

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cc: General Counsel


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